

FINDING OF NO SIGNIFICANT IMPACT

Permit for Incidental Disturbance Take of Golden Eagles: Granite Target Site at White Sands Missile Range, New Mexico

The U.S. Fish and Wildlife Service (Service) proposes to issue a renewable 1-year permit for take of golden eagles (*Aquila chrysaetos*) that is incidental to otherwise lawful activities associated with the operation of the Granite Target Site by the Defense Threat Reduction Agency and U.S. Strategic Command Center for Combating Weapons of Mass Destruction (DTRA/SCC-WMD) at White Sands Missile Range (WSMR), New Mexico, under authorization of the Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668-668d and 50 Code of Federal Regulations [CFR] § 22.26). DTRA/SCC-WMD's use of the Granite Target Site may disturb (take) golden eagles at a known eagle nesting territory in the vicinity (the SW Mockingbird site). We prepared an EA to analyze the environmental effects of two permit alternatives for authorizing this disturbance take of eagles. The EA is hereby incorporated by reference into this Finding of No Significant Impact (FONSI). None of the action alternatives considered are expected to have a significant effect on the human environment.

Purpose and Need for Action

The purpose of this action is to issue an Eagle Act permit to WSMR (U.S. Army Garrison) that authorizes potential disturbance take of eagles caused by weapon testing at the Granite Target site on WSMR that is compatible with the preservation of eagles and complies with Eagle Act permit regulations. The need for the action is to respond to WSMR's application requesting a permit to legally authorize that take.

FWS analyzed three alternatives:

Alternative 1: No Action

Under the No-Action Alternative, we would take no action on the permit application and not issue an eagle take permit. We considered this alternative because NEPA requires evaluation of a No-Action Alternative; not issuing the permit is a possible response to the permit application.

Alternative 2: Issue a 5-year (or longer) permit for incidental take of golden eagles due to disturbance

Under Alternative 2, we would issue a permit for incidental take due to disturbance, authorizing loss of the eagle breeding pair's productivity at the SW Mockingbird site for at least a 5-year period (beginning in 2018) due to disturbance take caused directly by weapons test events. Disturbance take, if it occurs, would result directly from weapons test events. We quantified the loss of the breeding pair's productivity in one year to be equivalent to the national average of 0.59 eagles per year as set forth on page 7 of the EA. Multiplying this annual productivity loss by five years, we expect adoption of this alternative to result in the take of 2.95 eagles. Per the Eagle Rule (2016b), compensatory mitigation for golden eagles is to be completed at a ratio of 1.2:1 such that, in this case, a loss of 0.59 eagles must be offset by 0.7 eagles gained (i.e., based

on 1.2:1 ratio, $2.95 \times 1.2 = 3.54$).

Alternative 3: Proposed Action - Issue a 1-year permit for incidental take of golden eagles due to disturbance

Under Alternative 3, we would issue a one-year permit for incidental take due to disturbance, authorizing loss of the eagle breeding pair's productivity in 2018. Disturbance take, if it occurs, would result directly from weapons test events. We quantified the loss of the breeding pair's productivity in 2018 to be equivalent to the national average of 0.59 eagles per year as set forth on page 7 of the EA. Per the Eagle Rule (2016b), compensatory mitigation for golden eagles is to be completed at a ratio of 1.2:1 such that, in this case, a loss of 0.59 eagles must be offset by 0.7 eagles gained (i.e., based on 1.2:1 ratio, $0.59 \times 1.2 = 0.72$).

We selected the proposed action (Alternative 3) over Alternative 2 because of the uncertainty regarding the physical impacts of weapons tests at the target site and whether those impacts will disturb eagles, e.g., the magnitude of concussive force, extent of shock waves, types and ballistics of blast debris, duration and intensity of noise. A five-year permit under Alternative 2 would exacerbate the potential consequences of this uncertainty over the effects of the weapons tests at the Granite Target Site. A key goal of this permit is to develop greater knowledge of these impacts to support a more robust, longer-term permit for disturbance take, if warranted. To assess responses of the breeding pair of eagles to weapons-test events, permit conditions would include intensive monitoring of their nesting and movement behavior via satellite transmitters (PTTs) in addition to standard ground-based observation to assess productivity. In addition, under the No Action Alternative, DTRA/SCC-WMD presumably would conduct weapons tests without a take permit being issued.

Implementation of the proposed action may result in the following environmental, social, and economic effects:

Direct effects of authorizing take of a single golden eagle breeding pair by disturbance from weapons tests during the December-July 2018 eagle breeding season could potentially result in the loss of one year of productivity for the pair at the SW Mockingbird territory.

Injury and death of golden eagles due to electrocution and vehicle collision have been documented on WSMR. However, injury, death, or disturbance caused by testing of weapons to be tested at the target site have not been documented.

At the EMU and local area population level, we anticipate that issuing a permit to authorize incidental take via disturbance would ensure that if any take occurs it would be offset by the compensatory mitigation required as a permit condition. Thus, permit issuance would cause no significant, adverse direct, indirect, or cumulative effects on the local area population of golden eagles. Compensatory mitigation would be achieved by retrofitting powerpoles, as detailed in the White Sands Missile Range Avian Protection Plan (EDM 2014).

Cultural effects were reviewed, and three area Tribes consulted, as part of the Granite Target Site EA (WSMR 2016). The current draft Environmental Assessment related to the potential permit

for Incidental Disturbance Take of Golden Eagles was posted on the Service's Southwest Region website for 30 days. We received five Tribal comments on the draft EA.

The Caddo Nation of Oklahoma Cultural Preservation Department recommended that we "continue with the project as planned" but requested that all construction and ground disturbance activities be halted in the event that the project inadvertently uncover an archaeological site or object(s). We note that permit issuance does not authorize or address these types of activities.

The Pueblo of San Felipe submitted several comments and questions that were addressed by the Service during the public comment period. In addition, based on these comments, the following edits were made to the DEA: we deleted "is not expected to interfere with religious and cultural interests of Native Americans related to eagles" under Cultural Effects and we clarified the distinction between the previous WSMR consultation and the current consultation process.

The Caddo Nation and Muscogee (Creek) Nations deferred to other Tribes as this project lies outside their area of historic interest.

The Pueblo of Laguna requested information from the permittee on dispositions of any birds taken.

Cumulative effects

The scale of our cumulative effects analysis is the area within 109 miles of the target site, based on information about natal dispersal distances of golden eagles. We define target-site scale as the area within 1 mile of the target site. This area overlaps the core area of use for the SW Mockingbird breeding pair. At this scale, cumulative impacts to the golden eagles may increase if future construction activity, infrastructure, human presence, and test frequency expanded beyond what is described in the Granite Target Site EA (WSMR 2016) and considered in this EA as the reference level for testing operations. Golden eagles occupying the SW Mockingbird territory could experience lowered productivity under any of the three alternatives.

At the local area population level, we anticipate that issuing a permit to authorize incidental take via disturbance would ensure that if any take occurs it would be offset by the compensatory mitigation required as a permit condition. Thus, permit issuance would cause no significant, adverse cumulative effects on the local area population of golden eagles. Further, our permit conditions would require WSMR to monitor occupancy of golden eagle territories adjoining the SW Mockingbird territory for at least 3 years, to help gauge our tentative assumption that the respective breeding pairs will not be affected by weapons tests.

Measures to mitigate and/or minimize adverse effects have been incorporated into the proposal. These measures include:

Monitoring

The terms and conditions outlined in a permit from the Service authorizing disturbance take,

would require WSMR to document whether the golden eagle breeding pair from SW Mockingbird territory continues to occupy the territory after any weapons test is conducted in 2018. WSMR would determine occupancy using data from PTTs as described in Appendix B, and in consultation with the Service. Location data from the eagles' PTTs would be used to determine whether, when, for how long, and to what spatial extent a member of the breeding pair shifts its distribution of use away from its normal use area following a weapons test event. If it appears that abandonment may have occurred due to testing, WSMR biologists will work with the Service to assess the weight of evidence suggesting that testing caused the abandonment (i.e., it was not simply coincidence), and whether the abandonment affected productivity. If a weapons test is conducted at the target site during the breeding season, status of nesting would be documented via ground-based observation as soon as possible before and after the test (ideally, the day before and day after). The pair's productivity would be determined via standard procedures for raptors—ground-based visits at least every 4 weeks during the normal mid-incubation stage until young are nearly fledged (~7 weeks of age), or until it is confirmed that the pair was not successful in producing young.

Compensatory Mitigation

As a compensatory mitigation measure to offset the potential loss of 0.7 golden eagles due to disturbance at the SW Mockingbird territory, WSMR would retrofit 22 power poles along electrical distribution lines in high priority areas to reduce electrocution risk to eagles. The number of poles to be retrofitted is based on a Resource Equivalency Analysis (Appendix C) and is additive in nature to the retrofits already scheduled as part of WSMR's avian protection plan. Retrofitting should be done within 109 miles of the target site, i.e., within bounds of the local area population of golden eagles, and would target poles with the most hazardous line configurations in areas that appear most attractive to eagles per guidelines in EDM International, Inc. (2014). If no take of eagles is detected during the 1-year term of the permit, WSMR would be credited for compensatory mitigation completed and can use the credit for any subsequent permit from the Service authorizing take of golden eagles on WSMR (Service 2016c). The Service prefers that compensatory mitigation required as a permit condition be completed before actions posing potential for take occur, though this often is not possible as would be the case in the 1-year permit for disturbance take due to weapons tests at the target site. Therefore, a condition of the permit should be that 22 hazardous power poles will be retrofitted within 1 year of the end of the permit period (e.g., before 1 December 2019 if the permit period is 1 December 1 2017 through 30 November 2018).

The proposal is not expected to have any significant adverse effects on wetlands and floodplains, pursuant to Executive Orders 11990 and 11988 because:

The only perennial water source for wildlife in the target site area is a spring about 1 mile north of the site. Surface water from thunderstorms flows from the target site into the Jornada del Muerto Basin. Groundwater is limited at the target site because soils are shallow and well-drained. Moreover, the proposed action of issuing a permit authorizing disturbance take of eagles, with mitigation measures focused solely on reducing the effects of eagle take, has no effect on wetlands or floodplains.

The proposal has been thoroughly coordinated with all interested and/or affected parties.

The current draft Environmental Assessment related to the potential permit for Incidental Disturbance Take of Golden Eagles was posted on the Service's Southwest Region website for 30 days. Notification was sent to all Southwest Region Tribes via email and formal letter. We received two Tribal comments on the draft EA.

Therefore, it is my determination that neither action alternative for the proposal constitutes a major Federal action significantly affecting the quality of the human environment under the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). As such, an environmental impact statement is not required. We prepared an environmental assessment in support of this finding, which is incorporated by reference in this document.

References:

U.S. Fish and Wildlife Service. 2018. Environmental Assessment: Granite Target Site at White Sands Missile Range, New Mexico: Permit for Incidental Disturbance Take of Golden Eagles. Southwest Region, Division of Migratory Birds, Albuquerque, New Mexico.

EDM International, Inc. (EDM). 2014. White Sands Missile Range Avian Protection Plan. Fort Collins, CO.

White Sands Missile Range (WSMR). 2017. Granite Target Site Final Supplemental Environmental Assessment, White Sands Missile Range, New Mexico. Defense Threat Reduction Agency, Kirtland Air Force Base, New Mexico.



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Date

